

ROBERT WAGGENER - SBN: 118450
LAW OFFICE OF ROBERT WAGGENER
214 Duboce Avenue
San Francisco, California 94103
Phone: (415) 431-4500
Fax: (415) 255-8631
E-Mail: rwlaw@mindspring.com

MARCIA ANN MORRISSEY - SBN: 66921
LAW OFFICE OF MARCIA ANN MORRISSEY
11400 W. Olympic Blvd., STE 1500
LOS ANGELES, CA 90064
Phone: (310) 399-3259
Fax: (310) 392-9029
E-mail: morrisseyma@aol.com

Attorney for Defendant RUSSELL TAYLOR OTT

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

No. CR 17 533 EMC

Plaintiff,

**TRIAL GROUP ONE JOINT
OBJECTION TO TRIAL EXHIBITS FOR
APRIL 26, 2022**

v.

RUSSELL TAYLOR OTT,

Defendant.

**TO: THE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF
CALIFORNIA; ASSISTANT UNITED STATES ATTORNEYS KEVIN BARRY,
AJAY KRISHNAMURTHY AND LINA PENG; AND TO THE CLERK OF THE
ABOVE-ENTITLED COURT:**

On April 22, 2022 the government provided notice to Nelson Trial Group One that it
intends to call law enforcement officer Travis Menke as a witness and introduce approximately
18 exhibits.¹ (United States' Witness and Exhibit List: April 26, 2022) The listed exhibits are

¹ Today the government indicated that it would also be offering another exhibit, Exhibit
542 - photos from a search of the residence of Trent Miles, through officer Menke. Counsel for

**TRIAL GROUP ONE JOINT OBJECTION
TO TRIAL EXHIBITS (4/26/22)**

1 broad ranging, and it is not clear that he has the requisite knowledge or information to establish
2 the foundation for the variety of exhibits.

3 All defendants objects to the admission of part or all of exhibits listed below, associated
4 with officer Menke, based on the grounds stated herein.

5 Exhibits 53, 54, 56, 57 (the physical evidence item for 57 is Exhibit 242). All of the listed
6 items have a connection to Joel Silva. Exhibit 53 is a set of items found in a dumpster and
7 reported to the Santa Rosa Police Department. Exhibit 54 is a hard hat with “That’s Mr. Dough
8 to You” written on it. Exhibit 56 are 23 letters or pieces of personal mail recovered from a PO
9 Box connected to Mr. Silva. Exhibits 57 and 242 relate to a dog tag chain with a “Doughboy”
10 inscription dated 2011, that also contains an HAMC deathhead. Defense counsel are familiar
11 with all of these items, but they each have a different background and context. Their
12 admissibility through officer Menke will depend on the foundation evidence that can be
13 produced.

14 Exhibits 102, 117. These exhibits are two sets of HAMC member rosters, one from Santa
15 Rosa and one from Fresno. These items have been deemed admissible by the Court, but the
16 defense is not going to agree to their raw admission without foundational information being
17 established as to their basic how, when, where, and the context of their collection.

18 Exhibits 128-143. This range of exhibits consist of phone records or CDRs, but they are
19 not a continuance set. Exhibits 131, 137, and 139 are no longer on the government’s exhibit list.
20 The parties can discuss a stipulation to the admissibility of these records, but we will first have to
21 be on the same page as to what is being offered and to be admitted.

22 Exhibits 261-270. These exhibits are all physical evidence items derived from the burned
23 truck found in the Fresno area on July 16, 2014. The defense well knows that officer Menke
24 followed up with the investigation regarding the burned truck belonging to Joel Silva, including
25 traveling to Fresno and observing the burned carcass of the truck. Admission of the various items
26

27 _____
28 defendant Nelson are assessing potential objections to these photos.

1 related to the truck is going to depend on officer Menke's knowledge of the items, the chain of
2 custody as to the items and the foundational testimony that he can provide.

3 Exhibit 452. These travel documents have already been discussed as part of the
4 bellwether exhibits. The government has agreed to remove the PG&E billing document from the
5 exhibit, and then the actual admissibility will be a matter of the foundational testimony offered
6 by officer Menke or another witness.

7 Exhibits 103, 104. These exhibits are single photographs of HAMC members, including
8 Joel Silva. Once again, these items are presumably admissible, but a foundation has to be
9 established.

10 Exhibits 124, 125, 126. These exhibits are sets of photos relating to the November 2017
11 arrests of defendants Wendt, Ott, and Nelson, that include photos of their tattoos. There are 7
12 photos of Wendt, 18 photos of Ott, and 36 photos of Nelson. The defense is not contesting the
13 ultimate admissibility of at least some of these photos, but the foundational circumstances of the
14 photographs has to be established.

15
16 Dated: April 24, 2022

Respectfully submitted,

17 /s/
18 ROBERT F. WAGGENER
19 MARCIA M. MORRISSEY
20 Attorneys for Russell T. Ott
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